

Significant Changes Proposed in Regulatory Requirements

1. The format of each section heading has been changed from the question/answer format to a short specific statement of the contents. This is done for clarity purposes.
 - Example: What is the Unified Program? This was changed to: Unified Program.
 - Example: What terms need to be clarified to understand the Unified Program regulations? This was changed to Unified Program Definitions.
2. The structure of the regulations has been changed significantly. Before the changes, many sections either repeated or shared common subjects found elsewhere in the regulations. The re-organization is primarily based on grouping common subject matter for ease of use.
 - Example: All definitions found throughout the regulations have been consolidated into one section titled Definitions.
 - Example: Many sections have requirements for retention times for specific documents. All requirements have been consolidated into one section concerning retention of documents.
3. The introduction under section 15100 was reconstructed to read clearly and provide for a better flow of subject matter. Responsibilities that duplicate those found in statute and regulation have been eliminated. Responsibilities have been added, clarified, and re-organized.
 - Example: Responsibilities are now organized into three categories: Secretary, State agencies, and CUPAs.
 - There are differing opinions on whether to keep or remove DTSC requirements found under section 15100(c)(4) – (11). Are these requirements necessary to clarify responsibilities? Do they cover all the responsibilities? Do they duplicate other statute or regulations?
4. The CalARP surcharge assessment language found under section 15240(c)(3) has been changed from the current one fee per business in each jurisdiction, to require a fee on for each regulated site. This would be consistent with how all other Unified Program fees are assessed.
5. Language was added to section 15250(a)(3)(B) regarding waiver of the surcharge. Under the new language, if a CUPA prorates their fees for regulated business in operation for part of a year, then the applicable surcharge components may be prorated at the same rate.
6. 15260(d)(3) and 15270(e) add the requirement for CUPAs and PAs to identify ongoing training on an annual basis.
7. 15260(b)(3) and 15260(d)(2) add a requirement for new CUPA employees to meet the educational and training requirements within one year from their date of hire.

8. 15270(d) adds a requirement for new PA employees to meet the training requirements within one year from their date of hire.

Regulatory Requirements Proposed to be Added

1. The definition of regulated business found under section 15110 has been expanded to reference all applicable programs.
2. Section 15180(a) has requirements for CUPA procedures. It states that one of the required procedures is responding to requests from the public, from government agencies with a legal right to access the information, or from emergency responders. We have added a requirement that this procedure include methods to prevent the release of confidential and trade secret information. We have also required a procedure for collection of the surcharge under Section 15180(e)(3) and a procedure for removal of a participating agency under section 15180(e)(6).
3. Section 15200(a)(1) - Language was added to require the Inspection and Enforcement Plan to include provisions for administering all program elements.
4. Section 15210(k)(1) – New language has been added to clarify surcharge disputes. The new language states that the CUPAs shall resolve disputes regarding the surcharge in the same manner used to resolve local fee disputes.
5. Section 15240(c)(3)(A) has some slightly new language that clarifies the CalARP surcharge exemption clearly.

Regulatory Requirements Proposed for Elimination

1. All flow charts.
 - The flow charts add little clarity to the regulations now that almost all of the CUPA programs have been developed. The workgroup stated that these are confusing and incomplete.
2. Procedures found under Section 15100(c)(3)(A-C) require a CUPA to establish procedures to accept contingency plan activation reports, release reports for tank systems or secondary containment systems, and tiered permitting closure reports. This requirement has been eliminated. DTSC is not required to have these procedures. There seems to be no great value to these procedural requirements because they only cover ***acceptance*** of certain reports. In addition, these requirements are also found in statute.
3. Procedures found under Section 15100(f)(4) & (5) require a CUPA to establish procedures for acceptance, tracking, and maintenance of Business Plans, RMPP, acutely hazardous materials registration forms, and reports of any release or threatened release of a hazardous material. This requirement has been eliminated. Much of this is covered under reporting and information management requirements. There seems to be no great value to these procedural requirements because they only cover ***acceptance, maintenance, and tracking*** of certain reports. In addition these requirements are also found in statute.
4. The definition of Integrated or Multi-media Enforcement has been eliminated because it is not needed for State reports or oversight and not tracked and reported by CUPAs.
5. The 4 inspection categories found in the definitions have been eliminated because they are not needed for state reports or oversight and it is confusing to track and report. Section 15130(c) states that a city or other local agency which intends to act as a participating agency shall notify the county in which it is located of this intent, no later than December 31, 1994. 15130(c)(1) goes on to state that failure of a city or other local agency that qualifies shall not serve as grounds for a county to refuse to include the city or other local agency as a participating agency in an application for certification.
 - These are conflicting requirements and have been removed.
6. Procedures for reporting, self-auditing, and UP meetings found under Section 15180 have been eliminated.
 - Requirements for reporting and self-auditing are necessary. However, it seems redundant to require a procedure as well. The reporting and self-auditing requirements are well documented in regulation and a procedure would simply restate these existing requirements.
 - Requirements for meetings seem unnecessary and have been eliminated

7. Section 15180(b) states the Secretary for Environmental Protection, shall, within five years of the effective date of the regulations in this Article, determine whether the regulations should be retained, revised, or repealed.
 - This section was eliminated, as it is out of date.
8. 15190(c)(2) requires the Consolidated Permit Plan have a flow chart describing the Unified Program's permitting timelines.
 - The requirement for a flow chart describing the UPA permitting timelines was removed. The requirement for permitting timelines was moved to Section 15190(b)(5)(A)(i).
9. 15190(c)(3)(B) states that a CUPA identify the permit status of each program element (temporary, provisional, or permitted).
 - This requirement was removed. There was a provision of the UST law that allowed local agencies to issue interim UST permits (Sec. 25284.5) and make a final decision on issuing a permit by March 1986. This section was deleted from the law, so there should no longer be a reference to interim UST permits.
10. Section 15200(f) – In the Inspection and Enforcement Plan, requirements for the number of regulated businesses within each program element was removed because the information duplicates summary reporting requirements. In addition, requirements in the plan for provisions to promote integrated multi-media inspection and enforcement have been eliminated as these definitions are proposed for removal from the definitions section. We are also proposing elimination of a requirement in the plan for county and/or regional meetings of the CUPA with its participating agencies and between the CUPAs in a countywide or regional area involving multiple CUPAs at least every quarter.
11. All training requirements related to field orders under section 15260(b)(3) have been eliminated. Field orders are no longer a viable tool.
12. Requirements for a summary of findings for each self-audit, and a demonstration that the CUPA has satisfied specific self-audit standards have been removed.
 - The self-audit is made up of many summaries, it should not be necessary to repeat these and summarize them. There also should be no need for a demonstration that the CUPA met the self-audit standards if the self-audit is to stand on its own.
13. Section 15290(j) that allows partial summary reporting in 1998-99 is out of date and is proposed for elimination.

Duplicative Regulatory Requirements Proposed for Elimination

1. Section 15100(b)(4) If no local agency has been certified within the unincorporated area of the county, the Secretary shall determine which agency should be designated as the CUPA or authorize certain state or local agencies' roles, responsibilities, and authorities to continue pursuant to Health and Safety Code, Section 25404.3(f)(2).
 - This duplicates statute.
2. Section 15100(b)(5-8)
 - (5) The Unified Program requires the CUPA in a jurisdiction to consolidate all permits, coordinate enforcement of all regulations and ordinances, and develop and coordinate a single inspection and enforcement program.
 - (6) The Unified Program requires each CUPA to institute a single fee system, which shall replace certain fees levied by state and local agencies; the revenue collected through this single fee will be used to fund the administration of those activities which will compose the Unified Program.
 - (7) The Secretary must review local agency applications for certification as a CUPA and consider the agency's resources as criteria for certification; more than one agency may be included in the application and certified to implement the program elements of the Unified Program.
 - (8) The Secretary is required to periodically review the ability of each CUPA to carry out the Unified Program; the Secretary may withdraw an agency's certification if the agency has failed to adequately implement the program.
 - Duplicative requirements. Each section above was removed from the introduction because each is covered in detail under other sections.
3. Section 15150(e)(6)(C) - The implementation plan shall identify the agreements which exist or are proposed between the applicant agency and all proposed participating agencies. Such agreements shall be included in the Agreements Section of the application for certification [refer to subsection (d) of this Section].
 - Duplicates Section 15150(d)(1)(a).
4. 15180(8)(C) states the CUPA shall include an evaluation of participating agency performance in the annual self audit, pursuant to Section 15280(a)
 - Duplicative requirement. This is already required in the self-audit process under section 15280(b).
5. 15190(b)(3)(C) states duplicate information between different forms is allowed only if it is necessary to provide for form tracking.
 - Duplicative requirement. This is a forms requirement and addressed under section 15187(i). It does not belong under permitting.

6. 15200(f)(3)(B) states the CUPA shall prepare a summary of the annual I&E plan review. The summary shall discuss effectiveness and efficiency of the Inspection and Enforcement Program activities for the prior year.
 - Duplicates requirements found in the self-audit. Each CUPA is already required to do a narrative summary in the annual self-audit regarding their inspection and enforcement activities for the prior year pursuant to Section 15280(c)(2)(B) and (C).
7. Section 15200(f)(1)(E) states the I & E plan shall include a mechanism to ensure that Unified Program inspector training meets or exceeds requirements currently set forth in statute or regulations. The plan shall also include methods to cross-train staff pursuant to 15200(f)(1)(F).
 - These requirements duplicate training requirements found under sections 15260 and 15270.
8. 15210(c)(2) states the CUPA shall transmit to the Secretary all surcharge revenues collected in accordance with Health and Safety Code Section 25404.5(b). Table 7 shall be used as a cover for all transmittals, unless otherwise agreed upon between the applicant agency and the Secretary.
 - Duplicative requirement. This requirement is stated clearly under section 15290(a) regarding CUPA surcharge responsibilities.
9. 15210(d) states the CUPA shall provide the Secretary with information necessary for determination of the annual surcharge.
 - (1) The applicant agency shall include in the application for certification, the number of regulated businesses and the number of underground tanks in its jurisdiction [refer to Section 15150(e)(4)].
 - This requirements duplicate those requirements found under section 15150(e)(4)
 - (2) The CUPA shall update the data required in this subsection annually and shall report such data to the Secretary by September 30 of each year using Table 8, unless otherwise agreed upon between the applicant agency and the Secretary [refer to Sections 15250(c) and 15280(b)]
 - This requirement duplicate those requirements found under section 15290(b).
10. 15230(b)
 - (b) The PA is required to notify the CUPA of its fee amount within the time frame as identified in the Unified Program single fee system implementation plan.
 - Duplicative requirements. This requirement duplicates those found under section 15210(e) regarding the single fee system.
11. 15250(a)(6) The CUPA shall provide access to surcharge billing, collection and transmittal records within 60 days following a request from the Secretary.
 - Duplicative requirements. These requirements duplicate those found under section 15290(h) regarding reporting.

12. 15250(d)(1) states that the dispute resolution process may allow the CUPA to waive the state surcharge or a portion of the Surcharge for specific regulated businesses, provided that:
 - (A) The criteria for waiving the state surcharge shall meet the same standards as those established by the CUPA for waiving the single fee.
 - (B) The portions of the state surcharge for oversight may not be waived for any regulated business as long as the CUPA is receiving a single fee from that regulated business.
 - Duplicative requirements. These requirements duplicate those found under 15250(a)(3).
13. 15250(e) states the CUPA shall provide access to surcharge billing, collection and transmittal records upon the Secretary's request.
 - Duplicative requirements. These requirements duplicate those found under section 15290(h) regarding reporting.
14. 15280(a)(3) states that upon written request of the Secretary or a state agency responsible for overseeing one or more program elements, the CUPA shall forward the self-audit to the person or agency making the request upon 60 days notice.
 - Duplicative requirements. These requirements duplicate those found under section 15290(h) regarding reporting.
15. 15290(i) Any other program reports required by federal or state law. The CUPA shall provide this information to the person or agency making the request within 60 days.
 - Duplicative requirements. These requirements duplicate those found under section 15290(h) regarding reporting.